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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,368	01/30/2002	Christopher Jean Seiler	6647-29	4539

45842 7590 09/17/2007  
MARGER JOHNSON & MCCOLLOM, P.C. - NOVELL  
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SUITE 400  
PORTLAND, OR 97204

EXAMINER
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SMITS, TALIVALDIS IVARS

ART UNIT	PAPER NUMBER
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2626

MAIL DATE	DELIVERY MODE
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09/17/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/066,368	<b>Applicant(s)</b> SEILER ET AL.	
	<b>Examiner</b> Talivaldis Ivars Smits	<b>Art Unit</b> 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-10, 13-19, 22-28, 31, 32 and 34-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-10, 13, 14 and 34 is/are allowed.
- 6) ☒ Claim(s) 1-4, 15-19, 22-28, 31, 32 and 35-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/12/2007</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. In response to the previous examiner's Office Action, mailed 4/13/2007, applicant has submitted an Amendment, filed 7/12/2007, amending claims 2, 10, 13-14, 22, and 31-32 without adding new matter, and arguing to traverse the claim rejections.

### ***Response to Arguments***

2. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### ***Information Disclosure Statement***

3. The two information disclosure statements (IDS) submitted on 7/12/2007 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements have been considered by the examiner. Please note that previously considered references, as well as one duplicated such reference (Fogarty), have been lined out, since they have not been reconsidered for this Office Action.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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5. Claims 1-4, 15-19, 22-28, 31-32, 34-39 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Independent claim 1 is rejected because it has no recited input nor output capability for the apparatus, and thus involves only internal processing of data involving two computers, without transforming an article or physical object to a different state or thing, nor producing a result which has a real-world practical application/use.

Dependent claims 2-4, 34, and 38-39 are rejected because they do not cure the deficiency of claim 1.

Independent claim 15 is rejected because it claims "computer-readable media", which, according to the Specification (p. 9, line 21), includes a nonstatutory "modulated carrier signal", and does not recite that the "program" is a "computer program".

Dependent claims 16-19, 22-23, and 36 are rejected because they do not cure this deficiency.

Independent claim 24 is also rejected because it claims a nonstatutory "modulated carrier signal".

Dependent claims 25-28, 31-32, 37 are rejected because they do not cure this deficiency.

***Allowable Subject Matter***

6. Claims 6-10, 13-14, and 34 are allowed over the prior art of record.

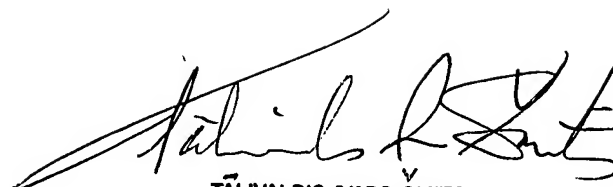
***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Talivaldis Ivars Smits whose telephone number is 571-272-7628. The examiner can normally be reached on 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on 571-272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'Tālisvaldis Ivars Smits', written in a cursive style.

TĀLIVALDIS IVARS SMITS  
PRIMARY EXAMINER

9/13/2007